

The 7th July, 1981

No. 9(1)81-8Lab/7463.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Usha Spinning and Weaving Mills Ltd., Mathura Road, Faridebad.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 461 of 1978

between

SHRI CHANDER BHAN, WORKMAN AND THE MANAGEMENT OF M/S USHA
SPINNING AND WEAVING MILLS LTD., MATHURA ROAD, FARIDABAD

Present :

Shri H. R. Dua, for the workman.

Shri B. D. Gulati, for the management.

AWARD

By order No. ID/FD/I-134-78/43282, dated the 28th September, 1978, the Governor of Haryana referred the following dispute between the management of M/s Usha Spinning and Weaving Mills, Ltd., Mathura Road, Faridabad and its workman Shri Chander Bhan, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Chander Bhan was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 14th June, 1979 :—

1. Whether the workman was in the service of the management at the appropriate time ?
2. Whether the termination of services of the workman was justified and in order ?
3. Relief.

And the case was fixed for the evidence of the workman, who examined himself as his own witness and closed his case. Then the case was fixed for the evidence of the management, who examined Shri Madan Gopal, Time Office Incharge as MW-1 and closed its case. Arguments were heard. Now I give my findings issuewise.

Issue No. 1.—WW-1 stated that he had joined the management on 12th April, 1964 as a pressman. Card of attendance was Ex. W-1, Ex. W-2 and W-3 was ESI card. No appointment letter was issued to him. His services were terminated on 27th May, 1974. Shri Tulsi Ram was fully empowered by the management. He had asked him to prepare press register because the Labour Inspector had pointed out some irregular entries in the register. He refused to prepare that register and the same was prepared by Shri Tulsi Ram who asked him to sign that register which he refused. He was turned out of the factory due to it. In cross examination he stated that Shri Tulsi Ram used to receive payment in respect of all the workmen belonging to his branch and made payments to them. He received through Shri Tulsi Ram by signing on pay register. He did not know where he used to deposit that register. He raised a dispute regarding his termination but it was decided against him as Shri Tulsi Ram described him as contractor. He denied the suggestion that he was employed by the contractor.

MW-1 stated that the workman concerned was never in the employment of the management. No payment was ever made to the workman by the management. He produced Ex. M-1 to M-4. He further stated that the workman had withdrawn his demand before the Conciliation Officer. Copy of award of Industrial Tribunal was Ex. M-5. Ex. M-6 and M-7 were copies of fresh demand notice. Comments of the management before the Conciliation Officer and other connected papers were Ex. M-9 to M-10. ESI contributions were deducted from the wages of the workman of the contractor and the forms were filled in by the contractor. Code number allotted to the contractor's employees was also the same allotted to the management. Shri Tulsi Ram was no more a contractor with the company. In cross examination he stated that Ex. W-1 pertained to the management but not Ex. W-3. He did not recognise signature on Ex. W-3, nor hand writing on it. He denied the suggestion that the workman was ever employed by the management.

In the demand notice the workman has shown that he was working under the management through Shri Tulsi Ram, Contractor. The workman had earlier raised a dispute against the said contractor

which was referred and adjudicated, — *vide* reference No. 17 of 1975 but was dismissed being infructuous by my learned predecessor on 7th December, 1977. Ex. M-5 because the workman had applied for substitution of the name of this management. Ex. M-10. is comments filed before the Conciliation Officer in which the workman stated that he was working through Shri Tulsi Ram, Contractor. In the comments of the management it is written that in the earlier reference the workman could not serve Shri Tulsi Ram, Contractor, therefore, he filed the present demand notice against the management. In fact this management had no concern with the workman. It is admitted by the management that it was responsible only under Payment of Wages Act and ESI Act and Provident Fund Act. The learned representative for the management argued that the concerned workman was never on the muster rolls or pay rolls of the management and there was no relationship of Master and Servant. On the other hand the learned representative for the workman argued that for all intents and purposes the management was responsible for the services of the workman, He cited 1978 Supreme Court Reports page 1073 in which it is held that "where a worker or a group of workers labour to produce goods or services and these goods or services are for the business of another, that other is in fact the employer. He has economic control over the worker's subsistence, skill, and continued employment."

But in this case the workman has failed to prove by any cogent evidence as to what type of service he rendered to the present management, whereas it was the case of the workman that he was employed by Shri Tulsi Ram, Contractor and he issued demand notice against the management only when Shri Tulsi Ram could not be served in the previous reference No. 17 of 1975, therefore, I hold that the workman was not in the service of the management at the appropriate time.

Issue No. 2 and 3.—As per finding given on issue No. 1, these issues need no decision.

While answering the reference, I give my award that the workman was not in the service of the management at the appropriate time. The workman is not entitled to any relief. I order accordingly.

M. C. BHARDWAJ,

Dated the 22nd June, 1981.

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 620, dated the 27th June, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 21st August, 1981

No. 9(1)81-8Lab/9385.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Belmont Rubber Industries, 58/B, Industrial Area, Faridabad :—

**IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER,
LABOUR COURT, HARYANA, FARIDABAD.**

Reference No. 315 of 1980

between

**SHRI MAHESH, WORKMAN AND THE MANAGEMENT OF M/S BELMOUNT
RUBBER INDUSTRIES, 58/B, INDUSTRIAL AREA, FARIDABAD**

Present :

Shri Yoginder Singh, for the workman.

Shri R. C. Sharma, for the management.

AWARD

This reference No. 315 of 1980 has been referred to this Court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/82-80/39219, dated 29th July, 1980 under section 10(i)(c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Mahesh, workman and the management of M/s Belmont Rubber Industries, 58/B, Industrial Area, Faridabad. The term of the reference was:—

Whether the termination of services of Shri Mahesh was justified and in order ? If not, to what relief is he entitled ?

On receipt of the order of reference, notices were sent to the parties. The parties appeared. But on 11th July, 1981 the date fixed in the case, the representative of the workman stated that he has no instructions from the workman and he did not want to proceed further in the case. On the other hand the representative of the management made a statement in this court that the workman had settled his dispute with the management mutually and also received a sum of Rs. 61520 in full and final settlement. The copy of the settlement is Ex. M-1.I, therefore, give my award that there is no dispute between the parties at present. The workman had settled his case with the management and his representative for the workman did not want to proceed with the case. No order as to costs.

Dated the 4th August, 1981.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Encl. No. 2469, dated the 10th August, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the abovesaid award may please be acknowledged within week's time.

HARI SINGH KAUSHIK
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9 (I) 81-8Lab/9387.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad in respect of the dispute between the workman and the management of M/s Ahuja General Industries 17-D, Industrial Area, Faridabad.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD.

Reference No. 539 of 1980

between

SHRI SUBHASH PRASAD, WORKMAN AND THE MANAGEMENT OF M/S AHUJA GENERAL INDUSTRIES, 17-D, INDUSTRIAL AREA, FARIDABAD.

Shri H. R. Dua, for the workman.

Shri R. C. Sharma, for the management.

AWARD

This reference No. 539 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/144-80/58596, dated 1st December, 1980, under section 10(i) (c) of the Industrial Disputes Act, 1947 for adjudication of the dispute existing between Shri Subhash Prasad, workman and the management of M/s Ahuja General Industries, 17-D, Industrial Area, Faridabad. The term of the reference was :—

Whether the termination of services of Sh. Subhash Prasad was justified and in order ? If not, to what relief is he entitled ?

On receipt of order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties issues were framed on 21st January, 1981 and the case was fixed for the evidence of the management. But at last the management made a statement in this court that the workman had settled his dispute and filed a copy of settlement Exhibit M-1. According to the settlement the workman has received a sum of Rs. 2,500/- in full and final

settlement of all his dues, claims and dispute including the right of his re-instatement or re-employment. The receipt of voucher is Ex. M-2. This statement was duly admitted by the representative of the workman. I, therefore, give my award that there is no dispute between the parties as the workman has settled his dispute with the management and has also received a sum of Rs. 2500/- from the management in fully and finally. The workman is not entitled to any relief. No order as to costs.

Dated 4th August, 1981.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Endst. No. 2467, dated 10th August, 1981.

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryan, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947, with the request that the receipt of the above said award may please be acknowledge with in week's time.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

No. 9(1)-81-8Lab/9396.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana, is pleased to publish the following award of the Presiding Officer, Labour Court, Faridabad, in respect of the dispute between the workman and the management of M/s Anupma Rubber Pvt. Ltd., 38 Mile Stone, Mathura Road, Faridabad.

IN THE COURT OF SHRI HARI SINGH KAUSHIK, PRESIDING OFFICER, LABOUR COURT, HARYANA, FARIDABAD

Reference No. 538 of 1980

between

SHRI LEKH RAM, WORKMAN AND THE MANAGEMENT OF M/S ANUPMA RUBBER PVT. LTD., 38 MILE STONE, MATHURA ROAD, PALWAL

Present.—

Shri Bhim Singh Yadav, for the workman.

None, for the management.

AWARD

This reference No. 538 of 1980 has been referred to this court by the Hon'ble Governor of Haryana,—vide his order No. ID/FD/127-80/58542, dated 1st December, 1980, under section 10 (i)(c) of the Industrial Disputes Act, 1947, for adjudication of the dispute existing between Shri Lekh Ram, workman and the management of M/s Anupma Rubber Pvt. Ltd., 38 Mile Stohe, Mathura Road, Palwal. The term of reference was :—

Whether the termination of services of Shri Lekh Ram was justified and in order ? If not, to what relief is he entitled ?

After receiving this reference notices were sent to the parties for 6th January, 1981. On that day both the parties appeared. Shri S. D. Mishra was appeared on behalf of the management without proper letter of authority and is directed to file the proper authority letter on the next date of hearing. The workman also filed a copy of claim statement and the case was fixed for 14th January, 1981 for written statement by the management. On that day the representative of the workman appeared but neither the management nor its authorised representative was present. It was already 1.30 P.M. The case was called thrice. The notice of summon had already been effected to the management. In these circumstances, my Learned Predecessor ordered to be proceed *ex parte* against the respondent management and the case was fixed 26th February, 1981 for the *ex parte* evidence to the workman.

On 26th February, 1981 the workman Shri Lekh Ram appeared in this court as WW-1. He stated that he was employed in factory since 10th March, 1980 and was drawing Rs. 300/-P.M. No appointment letter was given to the workman at the time of his appointment. The management terminated his service on 31st August, 1980 without any notice and reason. The workman further stated that the management terminated his service on the ground that he demanded his wages for the past few months. The workman also stated that he had made the claim against the respondent management before the Authority under the payment of Wages Act, 1936, Ballabgarh. The Copy of the same is Ex. W-1. The authority had given the order in his case, the copy of which is Ex. W-2. He further stated that he was un-employed till now and he was with full back wages and closed his case. Then the case was reserved for award. I sent notice to the workman for 1st July, 1981 for further *ex parte* arguments, which was heard.

Keeping in view the circumstances of the case I see no reason why the un-rebutted statement of the workman given on oath should not be relied upon especially, when the management chose not to appear and defend the reference before this court. So relying upon the un-rebutted statement of the workman Shri Lekh Ram as WW-1, I hold that the termination of the services of Shri Lekh Ram was un-justified and was also not in order. He is entitled to be re-instated with full back wages and continuity of service. I answer the reference while returning the award in these terms.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

Dated the 4th August, 1981.

Endst. No. 2458, dated the 10th August, 1981

Forwarded (four copies) to the Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947 with the request that the receipt of the above said award may please be acknowledge within week's time.

HARI SINGH KAUSHIK,
Presiding Officer,
Labour Court, Haryana,
Faridabad.

The 28th August, 1981

No. 9(1)81-8Lab/9546.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Sub-Divisional Officer SYL Mech. Sub-Division No. 10, Karnal. (i) The XEN, SYL Division No. III, Sub-Division No. 10, Karnal. (ii) Chief Engineer Haryana Irrigation, Chandigarh.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
HARYANA, FARIDABAD

Reference No. 1 of 1981

between

SHRI OMI RAM WORKMAN AND THE MANAGEMENT OF M/S. (i). SUB-DIVISIONAL OFFICER, S. Y. L. MECH. SUB-DIVISION NO. 10. KARNAL. (ii) THE XEN. S. Y. L. DIVISION NO. III SUB-DIVISION NO. 10, KARNAL. (iii) CHIEF ENGINEER HARYANA IRRIGATION, CHANDIGARH.

Present :—

Workman, in person.

Shri S. C. Dhaka, for the management.

AWARD

By order No. ID/KNL/108-80/64992 dated, 24th December, 1980 the Governor of Haryana referred the following dispute between the management of M/s. (i) Sub-Divisional Officer, S. Y. L. Mech. Sub-Division No. 10, Karnal. (ii) The XEN. S. Y. L. Division No. III Sub-Division No. 10, Karnal (iii) Chief Engineer Haryana Irrigation, Chandigarh and its workman Shri Omi Ram, to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Omi Ram was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties issues were framed and the case was fixed for the evidence of the management. But on 27th July, 1981 a settlement was arrived at between the parties. Shri S. P. Chopra Executive Engineer S. Y. L. Division No. 3 Kurukshetra of the management stated that the workman Shri Omi Ram had filed for compensation for his permanent disability

before the Commissioner Workman Compensation Act, Panipat. The Department has already on the direction of the Commissioner under Workman Compensation Act Panipat deposited a sum of Rs 13,440 on that account. On Compassionate grounds the workman will be re-employed as a Chowkidar whenever the first vacancy arises in his division. The workman Shri Omi Ram agreed to the statement of Shri S. P. Chopra Executive Engineer of the management.

In view of the statements of the parties, I give my award that the workman is not entitled to reinstatement on his old job, however, he will be absorbed in the division as a Chowkidar whenever, first vacancy arises there.

The 10th August, 1981.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 755, dated the 12th August, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana, Faridabad.

No. 9(1)81-8Lab./9547.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s Chief Engineer, Panipat Thermal Plant Haryana State Electricity Board, Panipat (ii) S.E. Sub-Yard Division, Thermal Plant H.S.E. Board Panipat.

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 65 of 1981

Between

SHRI MAHA SINGH WORKMAN AND THE MANAGEMENT OF M/S CHIEF ENGINEER,
PANIPAT THERMAL PLANT, HARYANA STATE ELECTRICITY BOARD, PANIPAT.

(II) SUPERINTENDING ENGINEER, SUB-YARD DIVISION, THERMAL PLANT,
HARYANA STATE ELECTRICITY BOARD, PANIPAT

Present :—

Shri Karan Singh, for the workman.
Shri S. S. Sarohi, for the management.

AWARD

By order No. ID/KNL/103/80/57462, dated the 21st November, 1980 the Governor of Haryana referred the following dispute between the management of M/s (i) Chief Engineer, Panipat Thermal Plant, Haryana State Electricity Board Panipat. (ii) Superintending Engineer, Sub-Yard Division, Thermal Plant, Haryana State Electricity Board, Panipat and its workman Shri Maha Singh, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 :

Whether the termination of services of Shri Maha Singh was justified and in order?
If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties issues were framed and the case was fixed for the evidence of the management. But on the 27th July, 1981 the representative for the management stated that the workman has been taken on duty in accordance with the compromise in the civil suit and his period of unemployment has been treated as leave of the kind due and he will be allowed all the benefits of the previous service as admissible under the rules. The representative for the workman also agreed to the statement of the representative for the management.

In view of the statements given by the parties, I give my award that the workman has been taken on duty and his period of unemployment shall be treated as leave of the kind due and the workman shall be allowed all the benefits of previous service as admissible under the rules.

Dated 10th August, 1981.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 754, dated 12th August, 1981.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.